

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**TIMOTHY DURST and
DAVID WAAGBO**

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PLAINTIFFS

v.

CAUSE NO. 1:08CV274 LG-RHW

**BEAU VIEW OF BILOXI, LLC
and JOHN DOES 1-10**

DEFENDANTS

**MEMORANDUM OPINION AND ORDER GRANTING
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

THERE CAME ON for consideration the motions for summary judgment filed by the Plaintiffs Timothy Durst and David Waagbo, and the Defendant, Beau View of Biloxi, LLC. The Plaintiffs allege that Beau View violated the registration and disclosure requirements of the Interstate Land Sales Full Disclosure Act in regard to their purchase of a condominium in the Beau View Towers. The Plaintiffs allege that Durst signed a contract to purchase the condominium on July 5, 2005 and both Plaintiffs closed sometime thereafter. Compl. 2. The Beau View did not comply with any requirement of the ILSFDA in regard to the sale because, it asserts, it had arranged its sales in a way that exempted the project from the Act. After careful consideration of the parties' submissions and the relevant law, it is the Court's opinion that the Plaintiffs will be unable to show that Defendant violated the ILSFDA. The Court's reasons are set out in the Memorandum Opinion and Order granting Defendant's Motion for Summary Judgment [41] in *Nickell, et al. v. Beau View of Biloxi, LLC, et al.*, cause no. 1:08cv272 LG-RHW, and adopted herein by reference. Accordingly, the Defendant is entitled to judgment as a matter of law.

IT IS THEREFORE ORDERED AND ADJUDGED that the Defendant's Motion [31]

for Summary Judgment is **GRANTED**. Plaintiffs' claims are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiffs' Motion [30] for Partial Summary Judgment is **DENIED**.

IT IS FURTHER ORDERED AND ADJUDGED that Defendant's Motion [34] for Partial Summary Judgment is **DENIED AS MOOT**.

SO ORDERED AND ADJUDGED this the 20th day of January, 2010.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE